IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR (C.G.)

WRIT PETITION NO. 4198 /2004

PETITIONERS

1. State of Chhattisgarh, through : Secretary, Department of Forest, D.K.S. Bhawan, Raipur (C.G.)

2. The Conservator of Forest, Raipur Circle, Raipur (CG)

3. The Divisional Forest Officer, Territorial North Forest Division, Raipur (C.G.)

VERSUS

RESPONDENTS

1. The Labour Court, through : Its Presiding Officer, Labour Court, Raipur (C.G.)

2. The Deputy Labour Commissioner, Raipur (C.G.)

3. The President, for Van Chowkidar Sangh, through : Bishouharam Sahu, son of Keju Ram Sahu, residenof village Tulsi Baradera, PO Mandir Hasaud, Tah. And Distt.Raipur (C.G.)

4. Chandrodaya Singh Thakur, through : Van Chowkidar Sangh Vilalge Tulsi Baradera, Post Mandir Hasaud. Tah. And Distt. Raipur (CG)

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5. Bishouha Ram Sahu, through Van Chowkidar Sangh village Tulsibaradera, PO Mandir Hasaud, Tah and Distt. Raipur (C.G.)

6. Bharat Kumar Uike, through : Van Chowkidar Sangh, village Tulsibaradera, Post Mandir Hasaud, Tah and Distt. Raipur (CG)

7. Lakhram Thakur, through Van Chowkidar Sangh, village Tulsibaradera, Post Mandir Hasaud, Tah and Distt. Raipur (CG)

8. Ashok Kumar Kaushik, through Van Chowkidar Sangh village Tulsibaredera, Post Mandir Hasaud, Distt. Raipur (CG)

WRIT PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA, 1950 FOR ISSUANCE OF WRIT IN THE NATURE OF CERTIORARI, MANDAMUS ETC. AND FOR APPROPRIATE ORDER / ORDERS, DIRECTION / DIRECTIONS.

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

Single Bench: Hon'ble Shri Satish K. Agnihotri, J.

W. P. No. 4198 of 2004

Petitioners : State of Chhattisgarh & others

Versus

Respondent : The Labour Court & others

Shri G.D. Waswani, Government Advocate for the Petitioners.

Shri Satendra Sahu, counsel for the Respondents No. 4 to 8.

ORAL ORDER

(28th July, 2006)

1. In the present case, the respondents No. 4 to 8 were appointed on Daily Wages Basis as muster roll employees on the basis of availability of work. Services of the respondents No. 4 to 8 were discontinued in the month of December, 1998.
2. According to learned counsel for the petitioners, the respondents No. 4 to 8 have no right to be regularized on the posts where they were appointed on daily wages basis on availability of work.
3. Learned counsel relies on decision of the Supreme Court in the case of **Secretary, State of Karnataka & others Vs. Umadevi (3) and others** { (2006) 4 SCC 1} and submits that the award passed by the labour Court is illegal. He further submits that the Labour Court has not considered the status of the respondents No. 4 to 8/employees, as their appointment was strictly on the basis of availability of work on daily wages basis.
4. Learned counsel appearing for the respondents No. 4 to 8 submits that it is true that in view of the decision of the Supreme Court in the case of **Secretary, State of Karnataka & others Vs.**

Umadevi (3) and others (supra) their may not be any right for regularization of daily wages employees. However, in the facts and circumstances of the case when the respondents No. 4 to 8 have worked for about 18 years, they cannot be thrown out without any protection of law.

5. Learned counsel for the respondents No. 4 to 8 further relies on para 53 of the decision in the case of **Secretary, State of Karnataka & others Vs. Umadevi (3) and others** {(2006) 4 SCC 1}, in which it is held as under:-

"53 ..... The question of regularization of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases aboverefered to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularize as a one-time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of the courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularization, if any already made, but not sub judice, need not be reopened based on this judgment, but there should be no further bypassing of the constitutional requirement and regularsing or making permanent, those not duly appointed as per the constitutional scheme"

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6. In view of the dictum laid down by the Supreme Court in the above judgment and order, the petitioners are directed to consider the cases of the respondents No. 4 to 8 as per direction of the Supreme Court, as stated above, as one time measure, in accordance with law.

7. The petition is accordingly allowed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

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